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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

NORTHWEST ENVIRONMENTAL
ADVOCATES, a non-profit corporation,

Civil No: 05-1876-HA

Plaintiff,

JOINT STATUS REPORT

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, a United States
Government Agency, NATIONAL MARINE
FISHERIES SERVICE, a part of the National
Oceanic and Atmospheric Administration, a part of
the United States Department of Commerce, and
UNITED STATES FISH AND WILDLIFE
SERVICE, a part of the United States Department
of the Interior,

Defendants, and

THE STATE OF OREGON, and NORTHWEST
PULP AND PAPER ASSOCIATION,

Intervenor-Defendants.

Plaintiff, Federal Defendants, Defendant-Intervenor State of Oregon, and Defendant-Intervenor Northwest Pulp and Paper Association (collectively, “the Parties”) hereby submit the following Joint Status Report, pursuant this Court’s Order on August 31, 2010. See Doc. No. 233. On August 9, 2010, Federal Defendants filed a Motion for Voluntary Remand, with the briefing concluding on August 23, 2010. See Doc. Nos. 224-232. On August 31, 2010, the Court entered an Order that required the parties to file a Joint Status Report by September 15, 2010 regarding whether they can agree on conditions of a court-ordered remand. See Doc. No. 233. The Parties began conferring shortly after receiving the Court’s Order. The Court granted the Parties’ motions to extend the time to file the Joint Status Report to September 24, 2010, and again to October 8, 2010. See Doc. Nos. 236 & 239.

Plaintiff and Federal Defendants have been involved in extensive discussions since the Court’s August 31, 2010 order. Plaintiff and Federal Defendants first spoke on September 7, 2010, and again on September 10, 2010, when Plaintiff presented Federal Defendants with a proposed framework for a conditional remand of the biological opinions. During a September 21, 2010, conference call, Federal Defendants responded to Plaintiff’s proposed framework. On September 24, 2010, Plaintiff sent Federal Defendants a letter memorializing the Parties’ prior communications and responding to Federal Defendants’ September 21st positions. On September 29, 2010, Plaintiff and Federal Defendants again had a conference call, in which they discussed the issues in Plaintiff’s September 24th letter. Finally, Plaintiff and Federal Defendants

spoke again on October 4, 2010. Federal Defendants had discussions with both Defendant-Intervenors on September 9, 2010. Despite the Parties' extensive and good-faith negotiations, they have been unable to reach an agreement as to whether a remand is appropriate at this time, and if so, what terms, limitations, and conditions the Court could or should impose on the remand before it has reached the merits of the case.

At this point, Plaintiff and Federal Defendants each believe that the approach they presented to the Court in their briefing on the motion for voluntary remand remains the best approach. Therefore, the Parties see two options for proceeding. First, the Court can take Federal Defendants' motion under advisement and issue a decision. Second, the Parties could file supplemental briefing that more specifically addresses the Court's August 31, 2010 Order regarding the appropriateness of a conditional remand. To address the points in the Order would potentially require new factual allegations that the Parties did not believe were appropriate to include in a joint status report without first determining if the Court wishes to have such information. The Parties' supplemental briefs would be short, and each party would file its supplemental brief by 5 p.m. Pacific Standard Time on Tuesday, October 19, 2010.

Dated this 8th day of October, 2010.

Respectfully submitted,

/s/ Daniel Mensher

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